



# JOEL KLEEFISCH

STATE REPRESENTATIVE



Chairman Moulton and Committee Members:

Thank you for scheduling Assembly Bill (AB) 358 for a public hearing today. I appreciate the opportunity to testify before you regarding legislation that seeks to protect small business, while maintaining public safety.

Late last session, the Legislature passed Assembly Bill (AB) 447 which the Governor later signed into law as 2005 Wisconsin Act 456. Among other things, the law established standards for the installation and operation of conveyances, e.g. elevators. The original intent of the bill was to create safety standards for elevators operated and used in public buildings. However, a substitute amendment to the bill significantly altered the legislation to include stair-lifts and chair-lifts operated and used in private residences. AB 358 simply returns Act 456 to the original intent of AB 447 as well as delaying the date on which the licensing and permitting requirements take effect.

As I worked with the author of Act 456, small business owners, representatives from the Elevator Industry Work Preservation Fund as well as builders, contractors and the Wisconsin Department of Commerce Safety and Buildings Division, the effective date for rules promulgated for Act 456 passed expired on June 1, 2007. Rather than force businesses that Act 456 was never intended to affect, be forced to stop operating, I worked with the Wisconsin Department of Commerce to draft an emergency rule to extend the effective date of Act 456. Subsequently, Assembly Substitute Amendment (ASA) 1 to AB 358 was drafted to reflect the new effective date.

Under the substitute amendment, "conveyance" means elevator, an escalator, a dumbwaiter, a belt manlift, a moving walkway, a platform lift, and a stairway chairlift, and any other similar device, such as an automated people mover, used to elevate or move people or things, as provided in the rules of Commerce. As under current law, "conveyance" does not include a grain elevator, a ski lift or towing device, or an amusement or thrill ride. In addition, the substitute amendment provides that "conveyance" does not include the following:

- An elevator, a dumbwaiter, a platform lift, or a stairway chair lift that is located in an individual residential dwelling unit or any other type of lift that moves people and that is located in such a unit.
- A personnel hoist or material lift.

The substitute amendment also deletes language created by Act 456 that relates to conveyances located in private residences as they are not covered under the modified definition of "conveyance." The substitute amendment does not remove the safety standards for elevators used and operated in public buildings as enacted in Act 456.

I ask that you support the small businesses, contractors and builders concerns that this bill addresses, while maintaining the public safety measures of 2005 Act 456, and vote to recommend AB 358 as amended, for passage. Thank you.



June 19, 2007

Assembly Committee on Small Business

Dear Members:

I have the pleasure of serving as corporate counsel for Bruno Independent Living Aids, Inc., manufacturer of accessibility products located in Oconomowoc, Wisconsin. Yesterday you received a letter from Mr. Michael R. Bruno II, President and CEO of the company. His letter was in support of your consideration of Assembly Bill 358 as it would modify Wisconsin Act 456. Mr. Bruno's letter concentrated primarily on the safety of the products and the activities of Bruno and its dealers here in Wisconsin. I had hoped to appear before you this morning to focus on several other points for your consideration. However, unfortunately, I am unable to do so as I have the distinct pleasure this morning of moving the admission to the Supreme Court of the State of Wisconsin of my son, a recent graduate of the University of Wisconsin Law School. I am sure you can appreciate that whereas the committee hearing is very important to Bruno, its employees and its customers being present at the admission of my son to the Supreme Court of the State of Wisconsin must, as I am sure you would concur, take precedence.

For your consideration I would like to ask you to consider several other issues that I think are germane to the proposed amendment to Wisconsin Act 456:

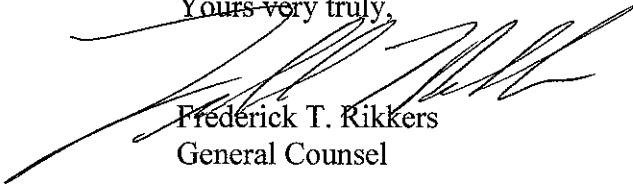
- 1) As you are aware the Department of Commerce issued emergency rules on May 30, 2007 pertaining to the implementation of Wisconsin Act 456, its language and definitions therein. Of particular interest is that the Department redefined the word 'conveyance' to exclude there from accessibility products that would be included in personal residence. This is appropriate and recognizes that accessibility products are for use in personal residence and have little in common with commercial elevators and escalators.
- 2) Michael Bruno commented on this same distinction and further noted that most accessibility products are subject to the United States Food and Drug Administration oversight and approval.
- 3) The National Association of Elevator Contractors (NAEC) has also noted a distinction between the traditional commercial application of elevators and escalators and accessibility products in developing several different methods and levels of certification. Specifically, there is a CET (Certified Elevator Technician) as distinguished from CAT (Certified Accessibility Technician). The NAEC distinction has been in existence for some time.

- 4) The American Society of Mechanical Engineers (ASME) have also noted a distinction between commercial elevators and escalators and accessibility products by establishing separate product codes for these products and their application.

Members, we are pleased to support Assembly Bill 358 for we believe that it does restore the original intent of Wisconsin Act 456 and it is also in concert with the distinctions of these two organizations as noted throughout the country.

Thank you again for your consideration to this matter and please accept my apology for being unable to be with you throughout this hearing.

Yours very truly,

A handwritten signature in black ink, appearing to read 'F. T. Ridders', is written over the typed name and title.

Frederick T. Ridders  
General Counsel

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June 18, 2007

Representative Joan Ballweg  
Room 115 West  
State Capitol  
P.O. Box 8952  
Madison, WI 53708

Dear Representative Ballweg:

Please accept this letter as a letter of support for Bruno Independent Living Aids, Inc. and its employees for Assembly Bill 358 which we believe restores the original intent of Wisconsin Act 456 (WI Act 456) of the Wisconsin Statutes. It may be helpful for you to know a little about Bruno Independent Living Aids, Inc. (Bruno). Bruno was formed by my father, Michael R. Bruno, 23 years ago when he returned to his home state, Wisconsin, to develop the business. Today, our company, which is located in Oconomowoc, remains family owned and employs 300 people. The company designs, manufactures and sells home accessibility products such as stair lifts and wheelchair porch lifts to people throughout the world. As our name suggests, our products are manufactured and sold to people who suffer from a disability and without the use of our products these people may not be able to remain in their home or have limited accessibility within their residence. This is certainly relevant to our aging population but also very important to young people who suffer from disabilities and to their family who provide support to their disabled children.

Bruno's products are sold primarily through medical supply dealers. There are approximately 30 dealers throughout Wisconsin representing Bruno. Bruno trains its dealers to sell, install and service stair lifts and wheelchair porch lifts that Bruno manufactures. A requirement to be a Bruno dealer is to engage in training at the Bruno facility in Oconomowoc at least every two years. This continued training assures that Bruno dealers are well trained to install and to service Bruno accessibility products. Therefore, the end result of this training insures the consumer of many years of safe use of Bruno's accessibility products.

If Assembly Bill 358 is not passed and therefore WI Act 456 is implemented in its current language we believe there will be a negative impact on not only Bruno's dealers but on other accessibility product businesses in Wisconsin. I cannot stress enough that Bruno's dealers are medical supply dealers and do not maintain relationships with commercial elevator or escalator companies. These dealers would have no reason to secure a license that would enable them to install commercial elevators or escalators. In most cases I do not believe these dealers would have the financial wherewithal to maintain an elevator service person or acquire the appropriate equipment related to the servicing of elevators which would be required to comply with the current language in WI Act 456. In the event that a Bruno dealer would attempt to provide such

a licensed person with the appropriate equipment this would certainly add additional cost to the accessibility product. Most of the accessibility products that are installed by Bruno dealers are not funded by the consumer's health insurance or by any other third party payers. Therefore, any additional cost for installation or required inspection would be borne directly by the consumer.

Accessibility products manufactured by Bruno for installation in residences of customers of its dealers are FDA approved and monitored. Bruno and the accessibility industry are very proud of the industry's safety record and we have shared with the drafters of WI Act 456 those FDA reports. The organizations that support WI Act 456 suggest that there is a need for additional elevator and escalator product categories. We do not question that position for they know the commercial elevator and escalatory industry far better than what we do. However, these organizations, which initially supported WI Act 456, have not historically worked on, nor have they been trained to provide service on residential accessibility equipment and products and therefore they are not in a position to have full consideration of the safety issues on these products.

WI Act 456, as it is written, provides training requirements based on commercial elevators and escalators and not on residential accessibility equipment. However, WI Act 456 as written with its definition of 'conveyance' would, by its broad language, sweep under the Act residential accessibility equipment. We understand from the initial sponsors of WI Act 456 that this was not their intent and we have been told that they are appreciative of the drafters of Assembly Bill 358 who have taken the time to identify the definition of commercial elevators and escalators and residential accessibility products.

We are hopeful that you would concur with the findings of the drafting of Assembly Bill 358 and would support it as we believe it brings in line the original intent of WI Act 456. Thank you for considering these issues for us and as a member on the Assembly Committee for small businesses we are hopeful that you would concur that the requested revision is appropriate.

Very truly yours,



Michael R. Bruno, II  
President and CEO



## ***Elevator Industry Work Preservation Fund***

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**TO: Assembly Small Business Committee**

**FR: George Klaetsch**

**RE: Oppose AB 358**

**DT: June 18, 2007**

### Background

2005 Act 456 created minimum standards for the entire conveyance industry by establishing qualification requirements for individuals and companies installing, maintaining and inspecting all conveyances in Wisconsin.

The bill passed almost unanimously in both legislative houses:

- 94 – 0 Assembly
- 31 – 2 Senate (Grothman, Reynolds)

### Implications of AB 358

AB 358 jeopardizes protections for the disabled and mobility impaired that were put in place last May when Governor Doyle signed into law WI Act 456. Specifically, the bill exempts the minimum standards for the installation and inspection of private residence stairway chairlifts in addition to the exemption of personnel and material hoists.

It is our belief that seniors, disabled and mobility impaired are the most vulnerable and should be entitled equal protections for the equipment in which they purchase for their home use, just as much, if not more than commercial stairway chairlifts. Private residence machines have quickly become the emerging market in conveyance construction, and increased construction has lead to an increase in questionable installation business practices and an increase in the incidence of accidents related to faulty installations and/or equipment.

AB 358 would create a loophole for predatory and/or unqualified organizations that do not meet the minimum standards created in WI Act 456 to install or inspect stairway chairlifts in disabled, mobility impaired and elderly homes; unfortunately placing them in harms way.

### Clarification

According to both Assembly and Senate co-sponsorship memos; *"a substitute amendment to the bill (2005 AB 447) significantly altered the legislation to include stair-lifts and chair-lifts operated and used in private residences."* According to the WI Legislative Council Amendment Memo on February 20, 2006, neither Assembly Substitute Amendment One nor Amendment One to Substitute Amendment refers in any way to stair-lifts and chair lifts used in private residences.

### Organization Interest – Current Lobby Registration

Oppose AB 358 - AARP and Elevator Industry Work Preservation Fund

Support AB 358 – Associated Builders and Contractors

**Please Oppose AB 358**

# ThePittsburghChannel.com

## 1-Year-Old Critical After Stair-Lift Accident

POSTED: 6:27 pm EDT October 29, 2005

UPDATED: 6:33 pm EDT October 29, 2005

**GREENFIELD, Pa.** — A Greenfield boy is in critical condition after an accident involving his grandmother's stair-lift, said authorities.

Police said 1-year-old Freddie Kincaid somehow got pinned beneath his grandma's electric lift chair between the first and second floors of the house.

"While I was on my way back to my house, I saw a car pull up and the mother of the baby jumped out of the car and was hysterical," said neighbor Donna Finley. "I said 'Kelly, what happened?' She said 'I don't know yet what happened.'"

Police secured the scene until homicide detectives arrived.

Most stair-lift chairs come with a safety sensor that causes it to stop when it strikes something.

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## **Stories of Two Girls Deaths in Elevator Accident, Colts Neck, New Jersey**

Other stories appeared in Ledger-Enquire [Columbus, GA.], New Haven Register [New Haven CT.], The Record [Hackensack, NJ.], Aberdeen News [Aberdeen, SD.], two articles in the New York Post, and an additional article in the Asbury Park Press [New Jersey].

Posted on Fri, Aug. 02, 2002

**The Philadelphia Inquirer**

### **Home elevator accident kills 2 girls**

A safety gate's sensor was taped over. The girls, 6 and 7, were at the Monmouth County estate where their father worked.

By Tom Bell  
Associated Press

**FREEHOLD, N.J.** - A safety gate that would have prevented the deaths of two young sisters whose heads were crushed by an elevator in a multimillion-dollar home was not closed, and someone had taped over the sensor that would have kept the car from operating with the gate open, Monmouth County authorities said yesterday.

Arelia, 7, and Nanci Franco, 6, were lying down in the elevator with their heads partly across the threshold as the car rose from the Colts Neck basement to the first floor Wednesday night. They died when their heads were wedged against part of the shaft.

"If that gate was closed, this would not have happened," Monmouth County Prosecutor John Kaye said.

Detectives did not know who had taped over the sensor. The deaths were being considered an accident, Kaye said.

The girls' father, Victoriano Franco, works for the home's owner, Kevin Ventrice, who was vacationing with his family in the Florida Keys.

Franco has worked for Ventrice for four years, authorities said, but the girls had moved from Mexico just four months ago. The family lives in Howell Township, outside Trenton in Mercer County.

The father was out on the 10-acre property looking for the owner's dog when the girls got on the elevator. Their brothers - ages 12, 13 and 14 - were not in the house.

When the father returned to the house and discovered the girls were in the elevator, he frantically pried open the doors, severely cutting his hands, Kaye said.

Autopsies were scheduled. Kaye said the cause of death would likely be massive head injuries.

The elevator, which runs from the basement to the second floor, was installed by a previous owner who used a wheelchair, Kaye said.



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# Child dies in elevator accident

July 25, 2006, 10:59 AM EDT

County Code Enforcer Jonathon Graham

CAROLINA BEACH -- A Wilmington child is dead after a horrifying accident involving an elevator. It happened Sunday night at a house off Pinfish Lane in Carolina Beach. According to investigators, the 10-year-old girl was celebrating her birthday with friends at her mother's boyfriend's house when things took a deadly turn. Investigators say around eight p.m. Sunday night the girl went to play in an elevator that was recently put into the house. Police did not say who pushed the buttons in the elevator but at some point the girl was hanging out of the front, from her shoulders up, when the elevator began to move up to the next floor. The girl did not get out of the way in time and got crushed. At the time of the incident investigators say there were still four or five other children from the birthday party in the house as well as the girl's mother and her mother's boyfriend.

Police are not saying whether or not the elevator had proper safety equipment in place, such as a gate, but inspection officials say residential elevators aren't required to have safety inspections performed. County code enforcer Jonathon Graham said, "We are not required to check for safety equipment, we are only required to check if it is properly wired. The Department of Labor doesn't check for safety in residential."

Police say the girl died on scene. Witnesses say that almost everyone who responded was extremely emotional, including authorities.

Authorities have not released the name of the girl out of respect for her family. They say she was from Wilmington and was visiting her mother's boyfriend's house where the party was being held.

SUN NEWS  
8-2-02

July 31<sup>st</sup>.

## NEW JERSEY

### FREEHOLD

## Two girls die in taped-over elevator

A safety mechanism was taped over and not working when two little girls were killed in an elevator in a multimillion-dollar home, authorities said Thursday.

Someone taped over the sensor that would have kept the car from operating with the gate open, Monmouth County prosecutor John Kaye said.

The girls, ages 6 and 7, were lying down in the elevator with their heads partially across the threshold as the car ascended from the basement. They were killed when their heads were wedged against a piece of the elevator shaft.

**WHEELCHAIR LIFT FATALITY...** The Montreal Gazette reports that a woman was killed as a result of injuries suffered when a home wheelchair lift stalled, and she moved underneath the lift to restart it. The lift apparently began to move again, pinning her beneath it. Her disabled nephew was on the lift at the time. Officials are investigating the lift to see what caused the stall and restart.



MEMORANDUM

June 19, 2007

To: Assembly Committee on Small Business

From: Edward J. Wilusz  
Vice President, Government Relations

Subject: **Assembly Bill 358**

Assembly Bill 358 would exclude certain conveyances from the elevator regulatory program established by 2005 Wisconsin Act 456. The bill also delays the effective date of the elevator restrictions by one year. Assembly Substitute Amendment 1 accomplishes essentially the same thing through a different mechanism.

The Wisconsin Paper Council supports Assembly Bill 358 and ASA 1 to AB 358.

Act 456 was aimed at improving elevator safety – a worthy goal. However, the way the law works has left paper mills and other manufacturers in an unworkable situation. Effective on June 1 of this year, Act 456 made it illegal for elevator repairs or maintenance, as well as more substantial work, to be conducted by anyone other than a licensed mechanic. However, there is no licensing program in place. An emergency rule recently promulgated by the Department of Commerce provides a "grandfather" provision for certain experienced elevator mechanics. However, only professional elevator mechanics are likely to qualify.

The result is that in-house maintenance personnel essentially cannot touch elevators until they get licensed and there is no program to get them licensed in any reasonable time frame.

Paper mills, and other manufacturers, have elevators used to move people, but more importantly, materials and products. One mill estimates that they have 16 elevators subject to the Act 456 restrictions. Prior to June 1, it was typical for most mills to have minor repair and maintenance on elevators done by in-house maintenance staff, with more significant work contracted out. However, at least one mill did all of its own elevator work, regardless of the scope. (This company routinely passed annual elevator inspections.)

Now, under Act 456, in-house, unlicensed maintenance personnel cannot make even the most minor repair. Mill personnel can no longer reset switches that are

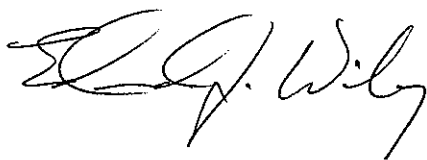
out of adjustment, cannot fix a stuck gate, cannot tighten a clamp on a leaking hydraulic hose, and cannot do other types of preventative maintenance on an elevator's mechanical and electrical equipment. These repairs now need to be contracted out.

The practical consequences will be increased costs for minor repairs, delays in completing minor repairs, and potentially costly manufacturing disruptions. One company estimates that its maintenance costs relating to elevators would more than triple. Another company, which had planned to do some repairs in-house for about \$15,000, now needs to contract out for the work. The low bid is nearly \$60,000.

Paper mills operate 24/7. If an elevator door jams at midnight, it could be many hours before an outside mechanic would be on-site to make the repair. Mills can have product storage on a different level of the mill from the paper machine. If finished product cannot be moved into storage because of a faulty elevator and a delay in making repairs, it could be necessary to stop production. In a paper mill, that is a very costly step.

We support AB 358 because of the one-year delay it provides. Hopefully, this will allow the Department of Commerce to put in place a reasonable program that would exempt minor housekeeping or custodial repairs and maintenance, and allow in-house maintenance personnel to be licensed before next June. It would be helpful if the bill were amended to make clear that Commerce can exempt routine maintenance and repair. It would also be a positive step if the penalties section was amended to delete imprisonment. Imprisonment seems to be an excessive penalty in this situation.

We urge your support for and quick handling of Assembly Bill 358.



rg



# **The Associated General Contractors of Wisconsin**

4814 East Broadway, Madison, WI 53716 (608) 221-3821 Fax: (608) 221-4446

## ***Assembly Small Business Committee***

Tuesday, June 19, 2007

### ***AB 358 – Elevator Contractor Licensing Repair Bill***

Testimony of the Associated General Contractors of Wisconsin

Presented by: Jim Boullion, Director of Government Affairs

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Chairman Moulton and Committee members, thank you for the opportunity to speak with you today. My name is Jim Boullion, Director of Government Affairs for the Associated General Contractors of Wisconsin (AGC).

AGC of Wisconsin strongly supports passage of AB 358, which will remove construction personnel and material hoists from the list of equipment that is covered by the new Elevator Contractor and Mechanic's licensing legislation that passed in 2006.

The result of this new law is that contractors would be required to hire outside elevator contractors to come to their jobsites to install, maintain and remove equipment that the contractor already owns instead of using their own workers, who are trained on the specific equipment they are using. This law will unnecessarily increase costs, create delays and will not provide added safety to our jobsites.

Those temporary construction hoists were added to the list of elevators and lifting equipment that would be covered by the licensing law in a late session amendment supported by the Elevator Industry Work Preservation Fund (EIWPF).

When AGC objected to this change last year we were told by the EIWPF that an amendment so late in the legislative session would put passage of the entire bill at risk and they assured us that we would work out the temporary hoist issue during the administrative rule process.

However, when we heard that Rep. Kleefisch was introducing an elevator licensing repair bill, we felt that it would be much better and clearer to simply fix the law with this bill and not wait for the administrative rule hearing.

To explain the specific reasons why we support this legislation I would like to introduce AGC member Dave Beck-Engle, Vice-President of Field Operations for J.H. Findorff & Son Inc. here in Madison:

Thank you for your time. We would be glad to answer any questions you might have.

**Temporary Construction Hoist Facts:**

- Construction personnel and material hoists are specialty equipment installed on a temporary basis on construction sites. Temporary construction hoists are intended for the use of the contractor's own employees and not transporting the general public.
- Individual general contractors and crane rental companies own these temporary construction hoists and use the same lifts for many years on different jobs
- They are typically installed and removed by ironworkers and operated and maintained by operating engineers, not by elevator contractors.
- The workers who install these hoists are trained on the specific type of hoist their company owns and are not generalized elevator mechanics.
- These workers become experts in installing this equipment because they install the same piece of equipment over and over.
- Temporary construction hoists are already covered by very stringent OSHA rules of installation and operation under Chapters 1926.552 through 1926.555 and have an excellent safety record in Wisconsin.

*Typical Construction Hoist*





## Wisconsin Manufacturers & Commerce

Wisconsin Manufacturers'  
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Wisconsin Council  
of Safety • 1923  
Wisconsin State Chamber  
of Commerce • 1929

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TO: Members of the Wisconsin Assembly Small Business Committee

FROM: John Metcalf, Director, Human Resources Policy

RE: Support for Assembly Bill 358 – Elevator Certification Effective Date

DATE: June 19, 2007

Wisconsin Manufacturers and Commerce supports Assembly Bill 358, and Assembly Substitute Amendment one that is pending. Specifically, WMC supports that section of AB 358 and the Substitute Amendment that delay the effective date of a regulatory initiative contained in 2005 Wisconsin Act 456 (Act 456) requiring the licensure of mechanics who install or maintain elevators in Wisconsin.

### Background

Many Wisconsin commercial and industrial facilities operate elevators for the transportation of persons and/or freight. In most industrial facilities routine repairs and maintenance of these elevators are typically undertaken by in-house's maintenance staff, while more significant repairs and long-term maintenance is contracted to outside vendors. In some situations where an industrial facility operates on a twenty-four hour continuous production schedule it is necessary for elevators to be operable at all times. To meet this operational requirement, maintenance by in-house maintenance staff is often necessary.

However, effective June 1, 2007, Act 456 requires the licensure of all persons who install or maintain elevators. Yet there is currently no licensing mechanism in place. An emergency administrative rule recently promulgated by the Wisconsin Department of Commerce Safety and Buildings Division "grandfathers" certain experienced elevator mechanics as qualified maintenance professionals. However, at the present time, most maintenance personnel in industrial facilities do not have a means through which to become certified.

Therefore, as a matter of law, under the provisions of Act 456, even the most minor elevator maintenance or repair will have to be contracted out to certified service providers. This will be costly, and it may result in certain industrial facilities having to temporarily cease operations and experience lost production if a conditionally licensed technician is not available to perform elevator repairs or maintenance on short notice.

### Action Requested

For these reasons WMC supports AB 358, delaying the effective date of Act 456 by one year in order to properly implement the licensing requirements for elevator maintenance technicians. This will provide Wisconsin industrial and commercial businesses the opportunity to have licensed technicians on staff to meet this requirement and maintain their operations.

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Gundersen Lutheran, La Crosse

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Serigraph Inc., West Bend

LARRY L. WEYERS, Chairman, President & CEO  
WPS Resources Corporation, Green Bay

GERALD WHITBURN, Chairman & CEO  
Church Mutual Insurance Company, Merrill